

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

US DISTRICT COURT
WESTERN DIST ARKANSAS
FILED

NOV 18 2016

DOUGLAS F. YOUNG, Clerk
By

Deputy Clerk
PLAINTIFF

COREY JOHNSTON

VS.

NO. 16-4111 SOH

PROGRESSIVE ENVIRONMENTAL SERVICES, INC.
and JARED STANLEY

DEFENDANTS

NOTICE OF REMOVAL

In accordance with 28 U.S.C. §§ 1441 and 1446, defendant Jared Stanley ("Stanley") hereby gives notice of the removal of this action from the Circuit Court of Miller County, Arkansas, to the United States District Court for the Western District of Arkansas, Texarkana Division. Removal jurisdiction based upon diversity of citizenship, 28 U.S.C. § 1332, is proper pursuant to the following:

1. This lawsuit is a civil action within the meaning of the Acts of Congress relating to the removal of cases.

2. This case, styled *Corey Johnston v. Progressive Environmental Services, Inc., et al.*, was filed on October 4, 2016, in the Circuit Court of Miller County, Arkansas, as civil action 46CV-16-295, on the docket of that Court.

3. In his Complaint, Plaintiff seeks recovery for the following alleged injuries or damages:

- a. Injuries;
- b. Medical expenses;
- c. Pain, suffering, and mental anguish;

- d. Earnings, profits, salary and working time lost;
- e. Loss of ability to earn;
- f. Scars, disfigurement, and visible results of injuries; and
- g. All other damages allowed by law.

(Ex. A, Compl. ¶ 36). In addition, Plaintiff seeks to recover punitive damages. *Id.* at ¶ 7. Specifically, Plaintiff requests judgment “in excess of the amount required for federal court jurisdiction in diversity of citizenship cases . . .” (*Id.* at ¶ WHEREFORE Clause). Therefore, the amount in controversy exceeds the minimum amount required for federal court jurisdiction in diversity of citizenship cases.

4. Stanley was served with the Summons and Complaint in this matter on October 19, 2016.

5. Stanley filed an Answer to Plaintiff’s Complaint.

6. This Notice of Removal is filed within thirty (30) days (or the first filing day thereafter) after the receipt by Stanley, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which this action is based and is therefore timely filed pursuant to 28 U.S.C. § 1446(b)(1).

7. Pursuant to 28 U.S.C. § 1446(a), Stanley attaches as Exhibit “A” to this notice, the Complaint in this matter, the Summons issued to Progressive, the Summons issued to Stanley, the Affidavit of Service on Progressive, the Affidavit of Service on Stanley, the Answer filed by Progressive, the Answer filed by Stanley, the Motion to Strike Insufficient Defenses of Progressive, and the Motion to Strike

Insufficient Defenses of Jared Stanley, which constitute all “process, pleadings and orders” served to date on Stanley.

8. This case is removed pursuant to 28 U.S.C. § 1332(a) because this action is between citizens of different states and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

9. Upon information and belief, and according to the allegations of the Complaint, at the time of the filing of the Complaint, Plaintiff was an individual citizen and resident of the State of Arkansas (Ex. A, Compl. ¶ 2).

10. Progressive is, and was at the commencement of the state court action, a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in the State of Florida.

11. Stanley is, and was at the commencement of the state court action, an individual citizen and resident of the State of Texas.

12. Accordingly, this Court has original jurisdiction of this action pursuant to 28 U.S.C § 1332(a), and the action is removable pursuant to 28 U.S.C. § 1441(a).

13. The United States District Court of the Western District of Arkansas, Texarkana Division, embraces the county in which the state court action is now pending.

14. Written notice of the filing of this notice will promptly be given to Plaintiff, and, together with a copy of this notice, will be filed with the Circuit Court of Miller County, Arkansas, as provided by 28 U.S.C. § 1446(d).

15. Undersigned counsel states that this removal is well grounded in fact, warranted by existing law, and not interposed for an improper purpose.

16. Progressive has expressly consented to the removal of this matter.

17. Stanley expressly reserves any and all defenses that may be available in this action.

WHEREFORE, defendant Jared Stanley hereby removes this action from the Circuit Court of Miller County, Arkansas, to the United States District Court for the Western District of Arkansas, Texarkana Division, and seeks resolution by this Court of all issues raised herein.

Respectfully submitted,

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*Attorneys for Progressive Environmental
Services, Inc. and Jared Stanley*

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2016, I presented the foregoing to the
Clerk of Court for filing and uploading to the CM/ECF system, which shall send
notification of such filing to the following:

Will Bond
Neil Chamberlin
McMath Woods, P.A.
711 West Third Street
Little Rock, AR 72201

Baxter D. Drennon by Paul Murren
Baxter D. Drennon